

October 6, 2021

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Agent for Service of Process for McWane, Inc.  
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AB&I Foundry  
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Oakland, CA 94621

**Re: Notice of Violation of the Safe Drinking Water and Toxic Enforcement  
Act of 1986, California Health & Safety Code Sections 25249.5 et seq. ("Proposition  
65")**

Dear Alleged Violators and the Appropriate Proposition 65 Public Enforcement Agencies:

We represent Communities for a Better Environment (“CBE”). CBE’s northern California address is 340 Marina Way, Richmond, California 94801; Tel. (510) 302-0430. CBE’s Executive Director is Darryl Molina Sarmiento and Legal Director is Shana Lazerow. CBE was founded in 1978 and is one of the preeminent environmental justice organizations in the country. CBE’s mission is to empower California’s communities of color and low-income communities to achieve environmental health and justice by preventing and reducing pollution and building green, healthy and sustainable communities and environments. CBE provides residents in the heavily polluted California communities where it organizes with organizing skills, leadership training and legal, scientific and technical assistance to confront threats to their public health and well-being.

This letter constitutes notification that the alleged Violators identified below have violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act, which is codified at Health & Safety Code § 25249.5 *et seq.*

CBE has identified violations of Proposition 65 by the alleged Violators identified below. The alleged Violators emit chromium (hexavalent compounds) into the atmosphere from the AB&I facility located at 7825 San Leandro Street, Oakland, CA 94621 and have exposed individuals in and around the facility to this chemical without providing a clear and reasonable warning to these individuals. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7, subdivision (d), CBE intends to file a private enforcement action in the public interest 60 days after effective service of this Notice of Violation unless on or before that date the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information About Proposition 65:** A copy of a summary of Proposition, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter and served on the alleged Violators.

**Alleged Violators:** The names of the companies covered by this Notice of Violation that violated Proposition 65 (hereinafter the “Violators”) are:

**McWane, Inc. individually and doing business under fictitious name of AB&I, A Division of McWane, Inc.**

**Information Pertaining to Hexavalent chromium and Proposition 65:** On February 27, 1987, the State of California officially listed chromium (hexavalent compounds) as a chemical known to cause cancer. On December 19, 2008, the State of California officially listed chromium (hexavalent compounds) as a chemical known to cause developmental toxicity, and male and female reproductive toxicity.

**General Geographic Location of the Unlawful Exposure:** The general geographic location of the unlawful exposure to the residential community and to workers at the noticed facility and other businesses covers an area with a circular radius of approximately 0.8 miles encompassing approximately 2.4 square miles.

**Route of Exposure:** The exposures that are the subject of this Notice of Violation occur through inhalation.

**Approximate Time Periods of Violations:** Up until recently, violations have occurred each day during the ordinary course of business operations since at least October 6, 2018 and will continue every day until clear and reasonable warnings as set forth below are provided to those persons exposed to chromium (hexavalent compounds) or until the level of emission from the Oakland facility is reduced to allowable levels.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. Based on the environmental exposure at issue, the method of warning should be one or more of the methods required in the California Code of Regulations (“CCR”), title 27, Section 25604. CBE believes that the method of warning most likely to be seen, read, and understood by an ordinary individual in the course of normal daily activity would be “a warning provided in a notice mailed, sent electronically, or otherwise delivered to each occupant in the affected area.” 27 CCR Section 25604, subdivision (a) (2). As required by Section 25604, subdivision (a) (2) (A-D) the warning must clearly identify the source of the exposure, include a map that clearly identifies the affected area, be provided at least every three months, and be provided in English and in any other language ordinarily used by the person to communicate with the public.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, CBE is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the alleged Violators to (1) take immediate measures to reduce the amount of chromium (hexavalent compounds) emitted from its Oakland facility so as to reduce or eliminate further exposures to this dangerous chemical; 2) provide warnings that are mailed, sent electronically, or otherwise delivered to each occupant exposed to a significant risk of cancers from the emissions in the affected area; and 3) pay an appropriate civil penalty. Such a resolution will prevent further unwarranted exposures to the identified chemical, as well as expensive and time-consuming litigation.

Please direct all initial communications regarding this Notice of Violation to Mr. Freund’s email address at [freund1@aol.com](mailto:freund1@aol.com).

Sincerely,

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Michael Freund  
Shana Lazerow  
Attorneys for Communities for a  
Better Environment

Attachments: Certificate of Merit, Certificate of Service, OEHHA Summary (to Violators only), and Additional Supporting Information for Certificate of Merit (to Attorney General only)

**CERTIFICATE OF MERIT**

**Re: Communities for a Better Environment Notice of Proposition 65 Violation**

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the Notice of Violation violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

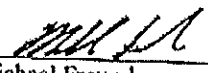
2. I am the attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the Notice of Violation.

4. Based on the information obtained through this consultation, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not provide that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code Section 25249.7 (h) (2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by the individual.

Dated: October 6, 2021

  
Michael Freund